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10/723,283

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Henna Fabritius

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EXAMINER

LEE, JINHEE J

ART UNIT

PAPER NUMBER

2174

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/723,283

Applicant(s)

FABRITIUS, HENNA

Examiner

Jinhee J. Lee

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's amendment of claims 17-25 to the method or device for changing orientation is accepted.

Applicant has elected group 1 by amending the claims.

Claims 1-12, 14-29 were examined.

***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-11, 27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basic of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technology arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

Claims 1-11, 27 are directed to a computer implemented method of calculation where the inputs are numbers and the results are also numbers, and/or are directed to a computer program stored in a computer readable storage medium for implementing the method. In order for a claimed invention that is directed to such a computer implemented method of calculation, or a computer program stored in a computer readable storage for implementing a computation to be statutory, the claimed invention must accomplish a practical application. That is the claimed invention must transform an article or physical object to a different state or thing, or produce a useful, concrete and tangible result. State Street, 149 F.3d at 1373-74, 47 USPQ2d at 1601-02. Also see

"Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility", OG Notices: 22 November 2005. It is clear from claims 1-11, 27 that the claims merely involve calculations and manipulations of data in performing computations. The claimed invention does not result in a physical transformation. The inputs are numbers and the outputs are also numbers. The result of the invention is merely numerical values without a practical application recited in the claims. It is not real world result, and thus is not useful, concrete and tangible. Therefore, the claimed invention is directed to non-statutory subject matter as the claims fail to assert a practical application to the invention.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-12 and 14-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Tsai (2003/0184525).

Re claim 1, Tsai discloses a method for changing an orientation of a User Interface, comprising: detecting a course of motion that is performed on said user interface, and changing said orientation of said user interface with respect to a device

said user interface is integrated in according to said detected course of motion, wherein said user interface is a touch screen display, and wherein said orientation of said touch screen display is changed by rotating the complete display and input control logic (see abstract and figures 2a-2c for example) .

Re claim 2, Tsai discloses a method, wherein said course of motion is performed on said user interface via a user interface interaction device (see abstract) .

Re claim 3, Tsai discloses a method, wherein said user interface is a touch-screen display and wherein said user interface interaction device is a touching device (see abstract and figures 2a-2c for example) .

Re claim 4, Tsai discloses a method, wherein said user interface interaction device is a device that controls the movement of an element on said user interface (see abstract and figures 2a-2c for example) .

Re claim 5, Tsai discloses a method, wherein said course of motion is performed on said user interface by dragging an element that is displayed on said user interface (see abstract and figures 2a-2c could drag the hat of the snowman for example) .

Re claim 6, Tsai discloses a method, wherein said element is located near an edge of the user interface. (See abstract and figures 2a-2c, hat is near the top edge in figure 2a for example)

Re claim 7, Tsai discloses a method, wherein said course of motion is performed on said user interface by drawing a gesture on said user interface (see abstract and figures 2a-2c for example) .

Re claim 8, Tsai discloses a method, wherein said gesture is a circle of a part thereof (see abstract and figures 2a-2c for example) .

Re claim 9, Tsai discloses a method, wherein said detected course of motion is visualized on said user interface (see abstract and figures 2a-2c for example) .

Re claim 10, Tsai discloses a method, wherein said orientation of said user interface is changed by 90.degree., 180.degree. or 270.degree. with respect to the device said user interface is integrated in (see abstract and paragraph 0023 for example) .

Re claim 11, Tsai discloses a method, wherein images that are displayed on said user interface are transformed and/or re-scaled according to said changed orientation (see abstract and figures 2a-2c for example).

Re claim 12, Tsai discloses a method, wherein said user interface is integrated in a hand-held device, in particular a mobile phone or a Personal Digital Assistant (see abstract and paragraph 0019) .

Re claim 14, Tsai discloses a computer program product stored on a data processing readable medium, the computer program product comprising a computer program with instructions operable to cause a processor to perform the method of claim 1 (see abstract and paragraph 0020 for example).

Re claim 15, Tsai discloses a device for changing an orientation of a user interface, comprising: a detector for detecting a course of motion that is performed on said user interface, and a processor and controller for changing said orientation of said user interface with respect to a device said user interface is integrated in accordance to

said detected course of motion, wherein said user interface is a touch screen display, and wherein said orientation of said touch screen display is changed by rotating the complete display and input control logic (see abstract and figures 2a-2c for example) .

Re claim 16, Tsai discloses a device , wherein said device for changing an orientation of said user interface is integrated in a hand-held device, in particular a mobile phone or a Personal Digital Assistant (see abstract and paragraph 0019 for example).

Re claim 17, Tsai discloses a device, comprising: at least one user interface.

Re claim 18, Tsai discloses a device, further comprising a user interface interaction device, via which said course of motion is performed on said at least one user interface (see abstract and figures 2a-2c for example) .

Re claim 19, Tsai discloses a device, wherein said at least one user interface is a touch-screen display and wherein said user interface interaction device is a touching device (see abstract and figures 2a-2c for example) .

Re claim 20, Tsai discloses a device, wherein said user interface interaction device is a device that controls the movement of an element on said at least one user interface (see abstract and figures 2a-2c for example) .

Re claim 21, Tsai discloses a device, wherein said course of motion is performed on said at least one user interface by dragging an element that is displayed on said at least one user interface (see abstract and figures 2a-2c for example) .

Re claim 22, Tsai discloses a device, wherein said course of motion is performed on said at least one user interface by drawing a gesture on said at least one user interface (see abstract and figures 2a-2c for example).

Re claim 23, Tsai discloses a device, further comprising means for visualizing said detected course of motion on said at least one user interface (see abstract and figures 2a-2c for example) .

Re claim 24, Tsai discloses a device, wherein said orientation of said at least one user interface is changed by 90.degree., 180.degree. or 270.degree. with respect to said mobile phone (see abstract and paragraph 0023 for example) .

Re claim 25, Tsai discloses a device, further comprising means for transforming and/or re-scaling images that are displayed on said at least one user interface according to said changed orientation (see abstract and figures 2a-2c for example) .

Re claim 26, Tsai discloses a device for changing an orientation of a user interface, comprising:

Means for detecting a course of motion that is performed on said user interface,  
and

Means for changing said orientation of said user interface with respect to a device said user interface is integrated in accordance to said detected course of motion, wherein said user interface is a touch screen display, and wherein said orientation of said touch screen display is changed by rotating the complete display and input control logic (See abstract, paragraphs 0019, 0020 and figures 2a-2c for example).



Re claims 27, 28 and 29, Tsai discloses a device or a method, wherein said course of motion is performed on said user interface by at least one of dragging an element that is displayed on said user interface and drawing a gesture on said user interface (see figures 2a - 2c for example).

***Response to Arguments***

6. Applicant's arguments filed 7/10/07 have been fully considered but they are not persuasive.

In response to applicant's arguments that 101 requirements are met, examiner disagrees. An apparatus claims need to have an hardware to establish a statutory category, and if the claims are for programmed functionality, then a physical transformation or a useful, concrete and tangible final result. Method claims likewise need a physical transformation or a useful, concrete and tangible final result. The claims are lacking in the requirements, therefore have not met the statutory requirement.

In response to applicant's arguments that the Tsia does not show a dragging element, but rather uses the drawing motion, examiner disagrees with the argument. Claim 5 for example states "course of motion is performed on said user interface by dragging an element that is displayed on said user interface". This requirement is achieved by figures 2a-2c on Tsia when an element such as the hat element of the snowman is dragged from the first quadrant to the second quadrant. Therefore, Tsia meets the claimed requirement.

Also, in response to applicant's argument above and that Tsai's objection of the invention is different from that of the applicant, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

In response to applicant's arguments that Tsai does not teach of change in input controls, examiner disagrees. It is inherent that the "input control logic" as claimed is changed in order to display the rotated image. I.e. the program display logic or input control logic has to be changed to reflect or to display the rotated or rotating image.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

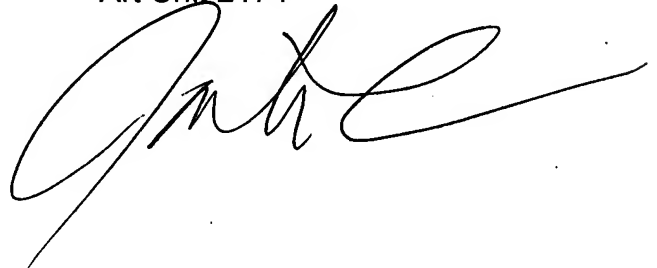
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jinhee J. Lee whose telephone number is 571-272-1977. The examiner can normally be reached on M-F at 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on 571-272-2100 ext. 74. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jinhee J Lee  
Primary Examiner  
Art Unit 2174

A handwritten signature in black ink, appearing to read 'Jinhee J. Lee', is written over the printed name and title.

jjl